

EXHIBIT

10

IN THE UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 EL PASO DIVISION
 VOLUME 7 OF 9

LULAC, et al.,) (EP:21-CR-259-DCG-JES-JVB
) ((Lead Case)
Plaintiffs,) (
) (
ROY CHARLES BROOKS, et al.,) (EP:21-CV-00991-DCG-JES-JVB
) (
Plaintiffs,) (
) (
vs.) (EL PASO, TEXAS
) (
GREG ABBOTT, in his official) (
capacity as Governor of Texas,) (
et al.,) (
) (January 27th, 2022
Defendants.) ((1:33 p.m. to 5:53 p.m.)

HEARING ON BROOKS PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

FIFTH CIRCUIT JUDGE JERRY EDWIN SMITH
 U.S. DISTRICT JUDGE DAVID C. GUADERRAMA
 U.S. DISTRICT JUDGE JEFFREY V. BROWN

APPEARANCES:

For Brooks Plaintiffs:	Mr. Chad W. Dunn
	Brazil & Dunn
	4407 Bee Caves Road
	Building 1, Ste. 111
	Austin, TX 78746
	(512) 717-9822
	Mr. Mark P. Gaber
	Mark P. Gaber PLLC
	P.O. Box 34481
	Washington, DC 20043
	(715) 482-4066
	Mark@markgaber.com

1 For Brooks Plaintiffs: Mr. Jesse L. Gaines
2 Attorney at Law
3 P.O. Box 50093
4 Fort Worth, TX 76105
5 817-714-9988
6 Gainesjesse@ymail.com

7 Ms. Molly E. Danahy
8 P.O. Box 26277
9 Baltimore, MD 21211
10 (208) 301-1202
11 Danahy.molly@gmail.com

12 Ms. Sonni Waknin
13 10300 Venice Blvd. # 204
14 Culver City, CA 90232
15 732-610-1283
16 Sonniwaknin@gmail.com

17 For Defendants: Mr. Patrick K. Sweeten
18 Mr. Christopher D. Hilton
19 Mr. Eric Hudson
20 Mr. William Thomas Thompson
21 Ms. Kathleen Hunker
22 Ms. Courtney Brooke Corbello
23 Mr. Jack Buckley DiSorbo
24 Office of Texas Attorney General
25 P.O. Box 12548
MC 009
Austin, Texas 78711
(512) 463-4139

ALSO PRESENT: Mr. Bryan Christopher
Court Reporter: Kathleen A. Supnet
El Paso, Texas
(915) 834-0573
kathi.supnet5303@gmail.com

21
22
23
24 Transcript produced by mechanical stenography, and
25 computer-aided software and computer.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHRONOLOGICAL INDEX

VOLUME 7 of 9

JANUARY 27, 2022, (1:33 p.m. to 5:53 p.m.) PAGE VOL.

<u>DEFENDANTS' WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>VOIR DIRE</u>	<u>VOL.</u>
SENATOR CECELIA JOAN HUFFMAN	4	37	--	7
DR. JOHN ALFORD	40,148	63	--	7
KEITH INGRAM	151	--	--	7
Court Reporter Certificate.			181	7

15:16:12 1 Q. Where did you get this data?

15:16:14 2 A. That's the result of an EI analysis.

15:16:18 3 Q. Who provided you the EI analysis?

15:16:20 4 A. So the EI analysis was performed, as is true for all
15:16:26 5 of my EI analysis, under my direction, supervised by Dr. Randy
15:16:36 6 Stevenson.

15:16:37 7 Q. I think I heard you say: As is true for all of your
15:16:43 8 EI analysis. Do you recall in the 2017 case that you received
15:16:49 9 an EI analysis from the Attorney General's office and that was
15:16:53 10 the EI analysis that you used, the Texas Attorney General's
15:16:59 11 office?

15:17:01 12 A. Again, there are a lot of Texas cases, but I know that
15:17:06 13 there -- maybe it was 2017. I know I received analysis in the
15:17:12 14 past from the Attorney General's office that I haven't relied
15:17:16 15 on, but I don't know if that was analysis I have relied on.

15:17:19 16 So at some point in the set of the Texas cases,
15:17:26 17 Dr. Stevenson, working with me, developed a methodology and a
15:17:29 18 set of programs for doing EI analysis that he shared with the
15:17:33 19 technicians at the Attorney General's office, so they have the
15:17:38 20 ability to run the EIs in the same form and fashion that we are
15:17:41 21 running them. So, you know, I don't -- this -- whatever was
15:17:49 22 going on in 2017, what's going on now is that the technicians in
15:17:58 23 the Attorney General's office can run an EI in exactly the form
15:18:02 24 that I want it run, because that's been set up by Dr. Stevenson.
15:18:07 25 Dr. Stevenson can run it.

15:18:10 1 In this particular -- for this particular analysis, I
15:18:12 2 think at the time I wrote the report, I may have been using a
15:18:19 3 run that came from the Attorney General's office, that was set
15:18:24 4 up -- we are in the process of -- it's a very large data process
15:18:28 5 to get ready for the trials that are coming up here in Texas, so
15:18:32 6 if we -- for a while, have been involved in the process of
15:18:34 7 building the data and programming capacity to do that. And we
15:18:39 8 did that. We do that kind of a type of election at a time and
15:18:42 9 we were -- we were not at the stage, yet, where we had the full
15:18:46 10 Senate election data set.

15:18:49 11 And so my recollection is that it was just quicker to
15:18:54 12 have -- to have that -- I think what ended up happening was that
15:19:02 13 Dr. Stevenson had that run with -- where the data was at that
15:19:06 14 time, which was the TLC data that the Attorney General's Office
15:19:12 15 had, rather than the data Dr. Stevenson had.

15:19:16 16 Subsequent to that, Dr. Stevenson got that data, and
15:19:21 17 while this has been run again, produces the same results, so I
15:19:25 18 was confident then, because I knew it was Dr. Stevenson code
15:19:30 19 that was being used, the TLC data. I'm confident now, because
15:19:34 20 I've seen the replication of it. Directly, it's the same
15:19:38 21 result.

15:19:38 22 Q. Okay. Who is the technician at the Texas Attorney
15:19:43 23 General's Office? Who ran the EI analysis?

15:19:45 24 A. I know it's in the technical office. I don't know the
15:19:49 25 actual person that runs the analysis.

15:19:51 1 Q. Do you know any of the names of the people in the
15:19:54 2 Texas Attorney General Office's technical office, who do run
15:19:58 3 these types of EI analyses?

15:20:00 4 A. I now Mr. Falk is sort of -- to my knowledge,
15:20:03 5 supervises that group. And I know there's a redistrictor or a
15:20:09 6 GS person there, but there are other technical people in the
15:20:13 7 technical staff as well.

15:20:15 8 Q. Do you know if any of these technicians have Ph.D.s?

15:20:19 9 A. No idea.

15:20:20 10 Q. You've never inquired to see if they have a Ph.D.?

15:20:24 11 A. You know, I have never inquired, because you don't
15:20:27 12 need to have a Ph.D. to initiate an R. Program. That's why we
15:20:33 13 wrote the program.

15:20:34 14 Q. Do you know if they have any experience or training in
15:20:35 15 running ecological inference analysis?

15:20:39 16 A. Again, you don't need to have experience in doing
15:20:41 17 that. You would have to have some experience to doing that, if
15:20:43 18 you're going to write the programs to do it, but if you're going
15:20:47 19 to execute the programs, you don't need that experience. They
15:20:52 20 might have, but I don't know.

15:20:52 21 Q. But you haven't inquired?

15:20:54 22 A. A decade or so ago when -- 15 years ago, the first
15:20:59 23 time I met with any of the technical people, I know there was a
15:21:03 24 mathematician there, who seemed to know a great deal about EI in
15:21:08 25 his mathematical underpinnings, I thought quite sophisticated.